

SEALING A JUVENILE COURT RECORD IN LEWIS COUNTY, WASHINGTON

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THIS PACKET INCLUDED INFORMATION ON SEALING A JUVENILE COURT
RECORD ONLY. THE FOLLOWING INFORMATION **DOES NOT APPLY** TO ADULT
CRIMINAL HISTORY RECORDS.

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INTRODUCTION

This packet is intended to provide information on sealing a juvenile record- **not to provide legal advice.**

For information about a court record, contact the city or county court where the case was filed. This may be a municipal, district, juvenile, or superior court. Contact the Lewis County Superior Court Clerk's Office at 360-740-2704 to determine whether there are any fees or restitution still owing.

For information about a criminal history record, contact the law enforcement agency responsible for the case. This may be a city police department, county sheriff's office, the Washington State Patrol, or another agency with police powers.

The authority to seal or destroy records and to vacate convictions is established by laws enacted by the Legislature and by rules adopted by the Washington State Supreme Court. State laws concerning court records and criminal history records change frequently, so you may wish to seek legal advice about your specific circumstances. You should consult an attorney to determine if sealing or destroying your record or vacating your conviction could affect your immigration status or your right to possess a firearm.

COURT RECORDS

A court record includes documents, information, and exhibits that are maintained by the court in connection with a judicial proceeding. If a defendant is convicted, the record contains a disposition order or judgment and sentence specifying the crime(s) committed and the punishment imposed. If a defendant is acquitted or the court determines charges should not go forward, the record shows the action has been dismissed.

Court records are maintained by the clerk of each court. Court records, like court hearings, are generally open to the public. Requests to access or review documents in a court file need to be addressed to the Clerk's Office or the Court Administrator for the court where your case is filed. A court can only address requests about cases filed in that court. If you have cases in more than one court, you must make a separate inquiry to each court.

Whether a court record may be sealed and whether a conviction may be vacated depends on the type of crime involved (misdemeanor or felony) and the court where conviction is obtained (juvenile or adult). A decision whether to seal or vacate a criminal case can only be made by a judge in the court where the case was filed.

Sealing or destroying a court record or vacating a conviction does not necessarily affect the records maintained by law enforcement agencies, other government agencies, or private concerns. Requests about records maintained by other agencies must be made to those agencies.

JUVENILE COURT RECORDS

Sealing

This section only applies to qualified disposition order entered after June 11, 2014 (RCW Title 13.50)

The courts shall hold regularly scheduled sealing hearings to administratively seal individuals' juvenile offender court records pursuant to RCW 13.50.260. At the juvenile offender's disposition hearing, the court shall schedule the sealing for the first regularly scheduled sealing hearing date *after* the latest of the following events take place:

- ☐ **Juvenile offender's eighteenth birthday;**
- ☐ **Anticipated completion of probation if ordered (including fines/fees owed and court ordered community service hours); or**
- ☐ **Anticipated release from confinement at the juvenile rehabilitation administration, or the completion of parole, if the respondent is transferred to the juvenile rehabilitation administration.**

A contested hearing will be scheduled no sooner than 18 days after notice of hearing and the opportunity to object is sent to the juvenile, the juvenile's attorney, and the victim. Following a contested sealing hearing, the court shall enter an order sealing the juvenile offender's court record unless the court determines the sealing is not appropriate. The social file may still be available to any juvenile justice or care agency with an investigation or open case involving the juvenile.

The court shall enter an order sealing a juvenile offender's court record *if*:

- ☐ **At the time of the offense it was not:**
 - A most serious offense as defined in RCW 9.94A.030;
 - A sex offense under chapter 9A.44 RCW;
 - A drug offense as defined in RCW 9.94A.030; and
- ☐ **The juvenile offender has completed the terms and conditions of disposition, including community service, and has paid restitution to the victim named in the restitution order, excluding what is owed to any insurance provider authorized under Title 48 RCW.**

Alternative Sealing Process

If a juvenile offender court record was *not* subject to the process described above, and the information was filed pursuant to RCW 13.40.100 or a complaint was filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the juvenile may file a motion with the court to vacate the order and findings and to seal the official juvenile court file, the social file, and records of the court and of any other agency in the case. Reasonable notice shall be given to the prosecution and to any person or agency whose records are sought to be sealed.

The court shall grant any motion to seal records for class A offenses *if*:

- ☐ **Since the last date of release from confinement, including full-time residential treatment, or entry of disposition, the person spent five consecutive years in the community without committing any offense or crime resulting in an adjudication or conviction;**
- ☐ **No proceeding is pending against the moving party that seeks the conviction of a juvenile offense or a criminal offense;**
- ☐ **No proceeding is pending that seeks the formation of a diversion agreement with that person;**
- ☐ **The person is no longer required to register as a sex offender under RCW 9A.44.130 or is relieved of the duty to register under RCW 9A.44.143 if the person was convicted of a sex offense;**
- ☐ **The person was not convicted of rape in the first or second degree, or of indecent liberties that was actually committed with forcible compulsion; and**
- ☐ **The person paid restitution to the victim named in the order, excluding any owed to an insurance provider authorized under Title 48 RCW.**

The court shall grant a motion to seal records for class B, class C, gross misdemeanor, and misdemeanor offenses and diversions *if*:

- ☐ **Since the date of last release from confinement, including full-time residential treatment, or entry of disposition, or completion of the diversion agreement, the person spent two consecutive years in the community without being convicted of any offense or crime;**
- ☐ **No proceeding is pending against the moving party that seeks the conviction of a juvenile offense or a criminal offense;**
- ☐ **No proceeding is pending that seeks the formation of a diversion agreement with that person;**

☐ **The person is no longer required to register as a sex offender under RCW 9A.44.130 or is relieved of the duty to register under RCW 9A.44.143 if the person was convicted of a sex offense; and**

☐ **The person paid restitution to the victim named in the order, excluding any owed to an insurance provider authorized under Title 48 RCW.**

The court shall grant any motion to seal records of any deferred disposition vacated under RCW 13.40.127(9) prior to June 7, 2012, if restitution is paid and the person is eighteen or older at the time of the motion.

The court shall immediately seal an official juvenile court record upon the acquittal after a fact finding or upon dismissal of charges. If the subject of the juvenile records receives a full and unconditional pardon, the proceedings shall be treated as if they never occurred.

Effect of Sealing

When a motion to seal records is granted, the order shall seal the official juvenile court record, the social file, and other records relating to the case as named in the order. The proceedings in the case are to be treated as if they never occurred. However, identifying information held by the Washington State Patrol in accordance with chapter 43.43 RCW is not subject to destruction or sealing described above. Subsequent adjudication of a juvenile offense or a crime voids a sealing order and the case will be publicly accessible. However the court may order the juvenile court record resealed upon disposition of the subsequent matter if the case meets the sealing criteria described above and the court record was not previously resealed. Any charging of an adult felony after the sealing voids the sealing order.

The record may be admissible if a background check conducted or authorized by the employer contained information in the sealed record.

Deferred Disposition

If a juvenile is granted a deferral of disposition under RCW 13.40.127, the court *may* dismiss the deferred disposition and vacate the conviction *if*:

- ☐ **The deferred disposition was not previously revoked;**
- ☐ **The terms of supervision were completed, including community service;**
- ☐ **There are no pending motions concerning lack of compliance; and**
- ☐ **Restitution was paid in full or there was a good faith effort to pay the full amount of restitution during the period of supervision.**

A conviction under RCW 16.52.205 (first degree animal cruelty) shall **not** be vacated. If a case is dismissed with restitution still owing, the court shall enter a restitution order for any unpaid restitution.

If the court vacates a conviction as described above, the case shall be sealed *if*:

- ☐ **The deferred disposition was vacated after June 7, 2012;**
- ☐ **The juvenile is eighteen years of age or older; and**
- ☐ **The full amount of restitution owing the victim (other than any insurance provider authorized under Title 48 RCW) is paid.**

If the juvenile is not eighteen years or older, but the deferred disposition was vacated after June 7, 2012, and full restitution was paid, the court shall schedule an administrative hearing to take place within thirty days after the juvenile's eighteenth birthday and enter a written order sealing the case. Juveniles can petition the court to seal records under RCW 13.50.050 for deferred dispositions vacated prior to June 7, 2012.

Glossary

CONVICTION OR OTHER DISPOSITION ADVERSE TO THE DEFENDANT: A disposition of charges other than a decision not to prosecute, a dismissal, or an acquittal.

DEFERRED SENTENCE: A sentence that will not be carried out if the defendant meets certain requirements, such as complying with conditions of probation. A deferred sentence is considered adverse to the defendant.

DELETE: To eliminate existing information.

DISCHARGE: An offender's release from confinement or supervision after completing sentence requirements.

DISMISSAL: The court-ordered termination of a case.

DISPOSITION: The formal conclusion of a criminal proceeding.

EXPUNGE: To physically destroy information.

FELONY: The offense classification for serious crimes. Felonies are designated class A, class B, and class C, with class A felonies subject to the longest terms of confinement.

GROSS MISDEMEANOR: An offense punishable by no more than 365 days in jail and \$5,000. Gross misdemeanors may be filed in either courts of limited jurisdiction (district or municipal courts) or superior court.

JUVENILE OFFENDER: A person under the age of 18 years who has not been transferred to adult court and who has been found to have committed an offense by the juvenile court. Individuals 18 years of age or older over whom jurisdiction has been extended are also juvenile offenders.

MISDEMEANOR: An offense punishable by no more than 90 days in jail and \$1000. May be filed in either courts of limited jurisdiction (district or municipal courts) or superior court.

MODIFY: To change existing information.

SEAL: To prevent access to a record.

SUSPENDED SENTENCE: A sentence postponed so the defendant is not required to serve time unless he or she commits another crime or violates a court-imposed condition. A suspended sentence is considered adverse to the defendant.

VACATE: To set aside a conviction.

Statutes, Rules, and Regulations

The following statutes, rules, and regulations concern court records and criminal history records:

Revised Code of Washington (RCW)

9.92.066 Termination of Suspended Sentence - Vacation of Conviction

9.94A.640 Vacation of Offender's Record of Conviction

9.95.240 Dismissal - Vacation of Conviction

9.96.060 Misdemeanor Offenses - Vacating Records

9.96.070 Vacating Records of Conviction - Prostitution Offenses

10.97.060 Deletion of Certain Information, Conditions

13.40.127 Deferred Disposition

13.50.050 Records of Juvenile Offenses

43.43.730 Criminal History Records

General Rules (GR)

Rule 15 Destruction, Sealing, and Redaction of Court Records

Rule 31 Access to Court Records

Washington Administrative Code (WAC)

446-16-025 Deletion of Arrest Records

446-16-030 Inspection by the Subject of Their Record (Courts may also have local rules governing access to court records.)

Resources

Washington Courts: <http://www.courts.wa.gov/index.cfm>

This site includes a statewide directory of courts, court rules, the most current version of this brochure, forms, and information about legal research and the State Law Library. The Administrative Office of the Courts may be contacted at (360) 357-2130, but agency personnel cannot provide legal advice.

Washington State Legislature: <http://apps.leg.wa.gov/rcw/> and <http://apps.leg.wa.gov/wac/>

These sites contain the Revised Code of Washington (RCW) and the Washington Administrative Code (WAC). Copies of the RCW and the WAC are also available at local libraries.

Washington State Patrol: <http://www.wsp.wa.gov/crime/crimhist.htm>

This site provides information about criminal history records. Call (360) 534-2000 for assistance from a State Patrol customer service representative.

Washington State Bar Association: <http://www.wsba.org/atj/contact/lawref.htm>

This site offers contact information about lawyer referral services. The Service Center may be reached at 1-800-945 -9722 or (206) 443-9722.